



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:	Issuance Date:
Public Notice No. 200301309	December 23, 2003
Application No.:	Expiration Date:
Horse Road Fork	January 23, 2004
Address comments to:	US Army Corps of Engineers, Huntington District 502 Eighth Street <u>ATTN: CELRHE</u> Huntington, West Virginia 25701-2070

PUBLIC NOTICE

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Nicewonder Contracting, Inc.
Post Office Box 335
Red Jacket, West Virginia 25692

LOCATION: The proposed highway project is located in Horse Road Fork, Big Muncey Branch, Thacker Fork, Left Fork, Perry Branch, Pigeon Creek and unnamed tributaries of Pigeon Creek, Mate Creek, Straight Fork and Left Fork, just north of Red Jacket on County Route 9. The proposed route would generally run along the ridge top between U.S. Route 52 and Mate Creek Road. The proposed route would cross County Route 8 at its intersection with County Route 8/1. The proposed route would continue eastward and would end near Coon Knob where it would connect to the Sharon's Height Connector, which is currently being constructed.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place dredged or fill material into approximately 42,018' linear feet of jurisdictional streams and 0.80 acre of jurisdictional wetlands in conjunction with the construction with a 4-lane, divided highway with partially controlled access and a connector road, referred to as the Horsepen Connector. The proposal would involve the construction of 14 road fills and associated sediment ponds as part of the Red Jacket section of the proposed highway. Likewise, the proposal would involve the construction of 7 road fills and associated sediment ponds as part of the Horsepen Connector road.

Approximately 28,568 linear feet of jurisdictional ephemeral and intermittent streams and 0.80 acre of jurisdictional wetlands would be permanently impacted in conjunction with the construction of 21 road fills. Approximately 13,450 linear feet of jurisdictional ephemeral and intermittent streams would be temporarily impacted by the construction sediment ponds. Table A details the proposed activities and corresponding stream and wetland impacts.

According to the applicant, the purpose of the project is to construct a road bed for section of the Federal Highway Administration's proposed King Coal Highway.

Plans of the proposed work are attached to this notice.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. The applicant submitted an alternative analysis that is currently being reviewed. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

MITIGATION PLAN: The applicant has submitted a conceptual mitigation plan to compensate for impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers.

To compensate for permanent impacts to jurisdictional streams, the applicant proposes to establish ephemeral and intermittent stream channels on-site. The ephemeral channels would be established adjacent to the proposed highway on the outer limits of project disturbances areas while the intermittent channels would be established in selected areas (borrow areas) bordering the project disturbances areas. Flow from these channels would be connected to existing jurisdictional waters on-site. The applicant has indicated if intermittent stream channels cannot be feasibly established on-site due to insufficient hydrological conditions then ephemeral stream channels at a ratio of 2:1 would be established or degraded stream channels located off-site would be enhanced and/or restored.

To compensate for permanent impacts to jurisdictional wetlands, the applicant proposes to establish wetlands within the areas proposed to be affected by sediment pond construction.

To compensate for temporary impacts to jurisdictional streams, the applicant proposes to restore the stream channels affected by sediment pond construction to their approximate original contours.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

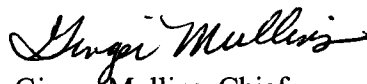
ENDANGERED/THREATENED SPECIES REVIEW: The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species, which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

If you have any questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-529-5710.


Ginger Mullins, Chief
Regulatory Branch

(W)

Table A
Stream Measurements

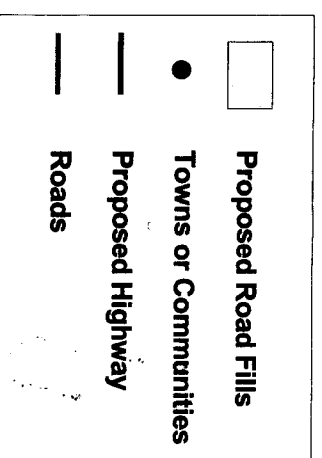
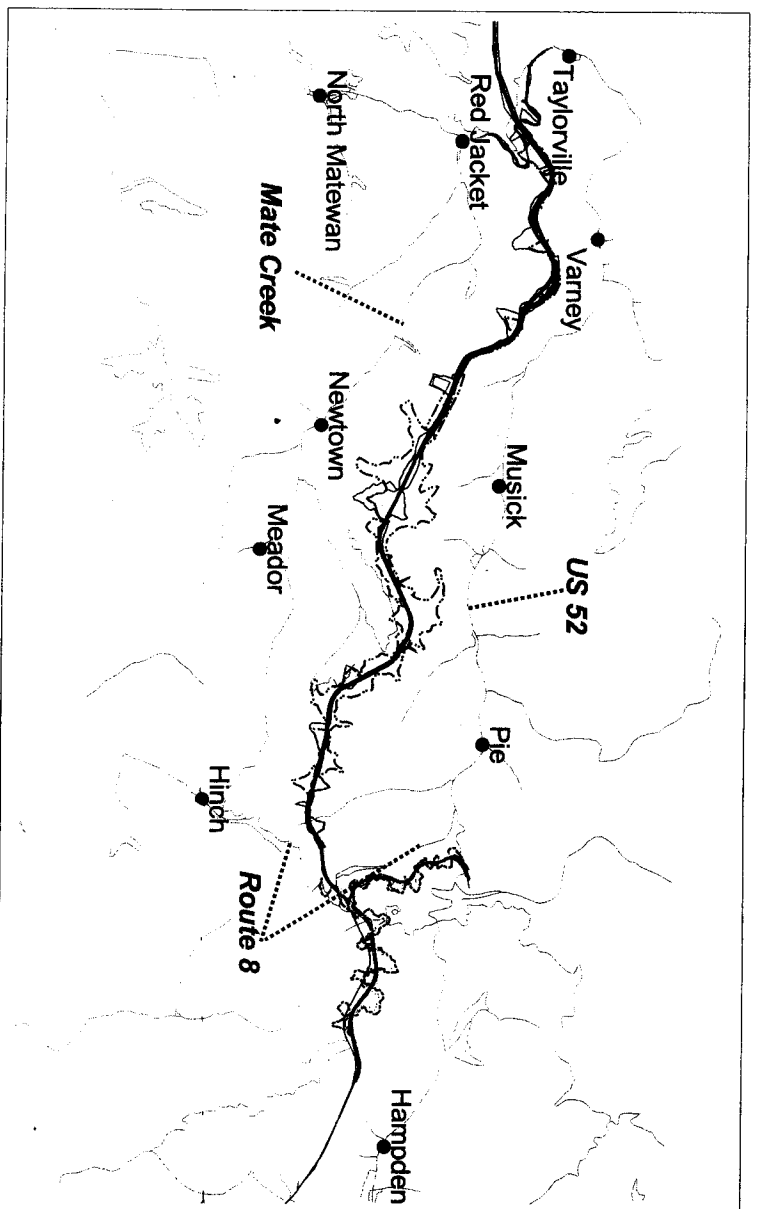
Proposed Structure	Permanent Intermittent Impact (linear feet)	Permanent Ephemeral Impact (linear feet)	Total Permanent Impact (linear feet)	Temporary Intermittent Impact (linear feet)	Temporary Ephemeral Impact (linear feet)	Total Temporary Impact (linear feet)	Permanent Wetland (acres)
Main Road							
Road Fill No. 1	550'	1450'	2000'	--	--	--	0.80
Pond No. 1	--	--	--	700'	--	700'	--
Road Fill No. 2	--	2445'	2445'	--	--	--	--
Pond No. 2	--	--	--	700'	--	700'	--
Road Fill No. 3	--	1738'	1738'	--	--	--	--
Pond No. 3	--	--	--	575'	125'	700'	--
Road Fill No. 4	--	--	--	--	--	--	--
Pond No. 4	--	--	--	--	--	--	--
Road Fill No. 5	1750'	1225'	2975'	--	--	--	--
Pond No. 5	--	--	--	700'	--	700'	--
Road Fill No. 6	--	--	--	--	--	--	--
Pond No. 6	--	--	--	500'	--	500'	--
Road Fill No. 7	--	1950'	1950'	--	--	--	--
Pond No. 7	--	--	--	--	700'	700'	--
Road Fill No. 8	--	500'	500'	--	--	--	--
Pond No. 8	--	--	--	--	700'	700'	--
Road Fill No. 9	--	1200'	1200'	--	--	--	--
Pond No. 9	--	--	--	--	700'	700'	--
Road Fill No. 10	1500'	200'	1700'	--	--	--	--
Pond No. 10	--	--	--	700'	--	700'	--
Road Fill No. 11	--	863'	863'	--	--	--	--
Pond No. 11	--	--	--	--	700'	700'	--
Road Fill No. 12	--	1127'	1127'	--	--	--	--
Pond No. 12	--	--	--	--	400'	400'	--
Road Fill No. 13	200'	1451'	1651'	--	--	--	--
Pond No. 13	--	--	--	700'	--	700'	--
Road Fill	1150'	1400'	2550'	--	--	--	--

Proposed Structure	Permanent Intermittent Impact (linear feet)	Permanent Ephemeral Impact (linear feet)	Total Permanent Impact (linear feet)	Temporary Intermittent Impact (linear feet)	Temporary Ephemeral Impact (linear feet)	Total Temporary Impact (linear feet)	Permanent Wetland (acres)
No. 14							
Pond No. 14	--	--	--	650'	--	650'	--
TOTAL MAIN ROAD	5150'	15549'	20699'	5225'	3325'	8550'	0.80
Horsepen Connector Road							
HP Road Fill No. 1	--	500'	500'	--	--	--	--
HP Pond No. 1	--	--	--	--	700'	700'	--
HP Road Fill No. 2	--	1477'	1477'	--	--	--	--
HP Pond No. 2	--	--	--	--	700'	700'	--
HP Road Fill No. 3	213'	712'	925'	--	--	--	--
HP Pond No. 3	--	--	--	700'	--	700'	--
HP Road Fill No. 4	--	1289'	1289'	--	--	--	--
HP Pond No. 4	--	--	--	--	700'	700'	--
HP Road Fill No. 5	711'	927'	1638'	--	--	--	--
HP Pond No. 5	--	--	--	--	700'	700'	--
HP Road Fill No. 6	--	790'	790'	--	--	--	--
HP Pond No. 6	--	--	--	--	700'	700'	--
HP Road Fill No. 7	500'	750'	1250'	--	--	--	--
HP Pond No. 7	--	--	--	700'	--	700'	--
TOTAL HP ROAD	1424'	6445	7869'	1400'	3500'	4900'	--

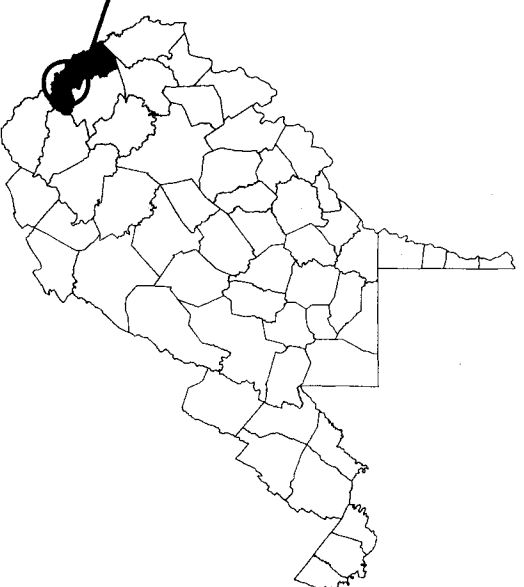
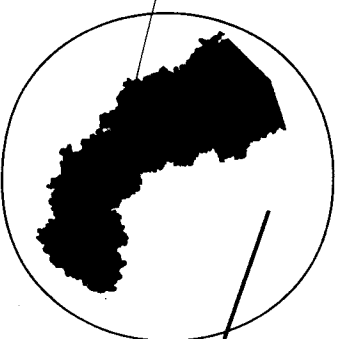
* Note: Permanent linear feet provided represent the impacts from the toe of the proposed fill to the head of the definable channel.
Proposed temporary impacts are approximate, as final design has not been completed; however, impacts will not exceed this amount.

Proposed Structure	Permanent Intermittent Impact (linear feet)	Permanent Ephemeral Impact (linear feet)	Total Permanent Impact (linear feet)	Temporary Intermittent Impact (linear feet)	Temporary Ephemeral Impact (linear feet)	Total Temporary Impact (linear feet)	Permanent Wetland (acres)
Grand Total Main & Hp Roads	6574'	21994'	28568'	6625'	6825'	13450'	0.80
Grand Total of Permanent & Temporary Impacts	42,018'						

Red Jacket Project Area Mingo County, West Virginia

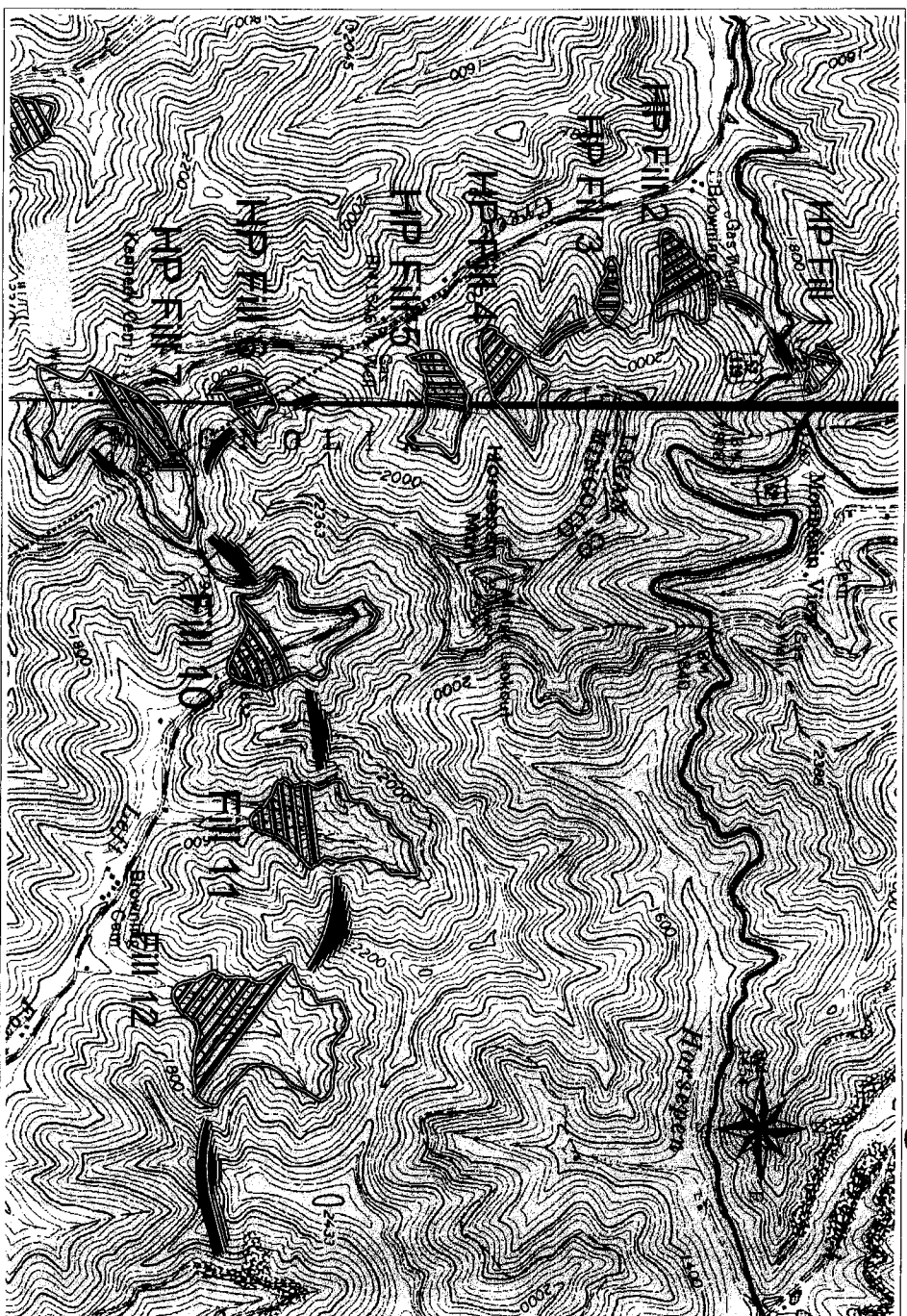


Red Jacket Project Area



King Coal Highway Project
Red Jacket Segment
State Project: X169-SHAWN-1.03.
Federal Project: DPS-0012(013).

Red Jacket Project Area



NOTE: ALL FILL LOCATIONS AND SIZES ARE APPROXIMATE

- HP Fill 1 - Unnamed Tributary of Pigeon Creek
- HP Fill 2 - Unnamed Tributary of Pigeon Creek
- HP Fill 3 - Unnamed Tributary of Pigeon Creek
- HP Fill 4 - Unnamed Tributary of Pigeon Creek
- HP Fill 5 - Unnamed Tributary of Pigeon Creek
- HP Fill 6 - Unnamed Tributary of Pigeon Creek
- HP Fill 7 - Unnamed Tributary of Pigeon Creek
- Fill 10 - Left Fork of Ben Creek
- Fill 11 - Unnamed Tributary of Left Fork of Ben Creek
- Fill 12 - Unnamed Tributary of Left Fork of Ben Creek

Mapping : USGS 7.5 Series - Barnabus and Man

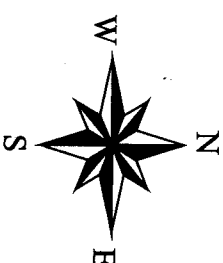
King Coal Highway Project
 Red Jacket Segment
 State Project: X169-SHAMN-1.03.
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Red Jacket Project Area



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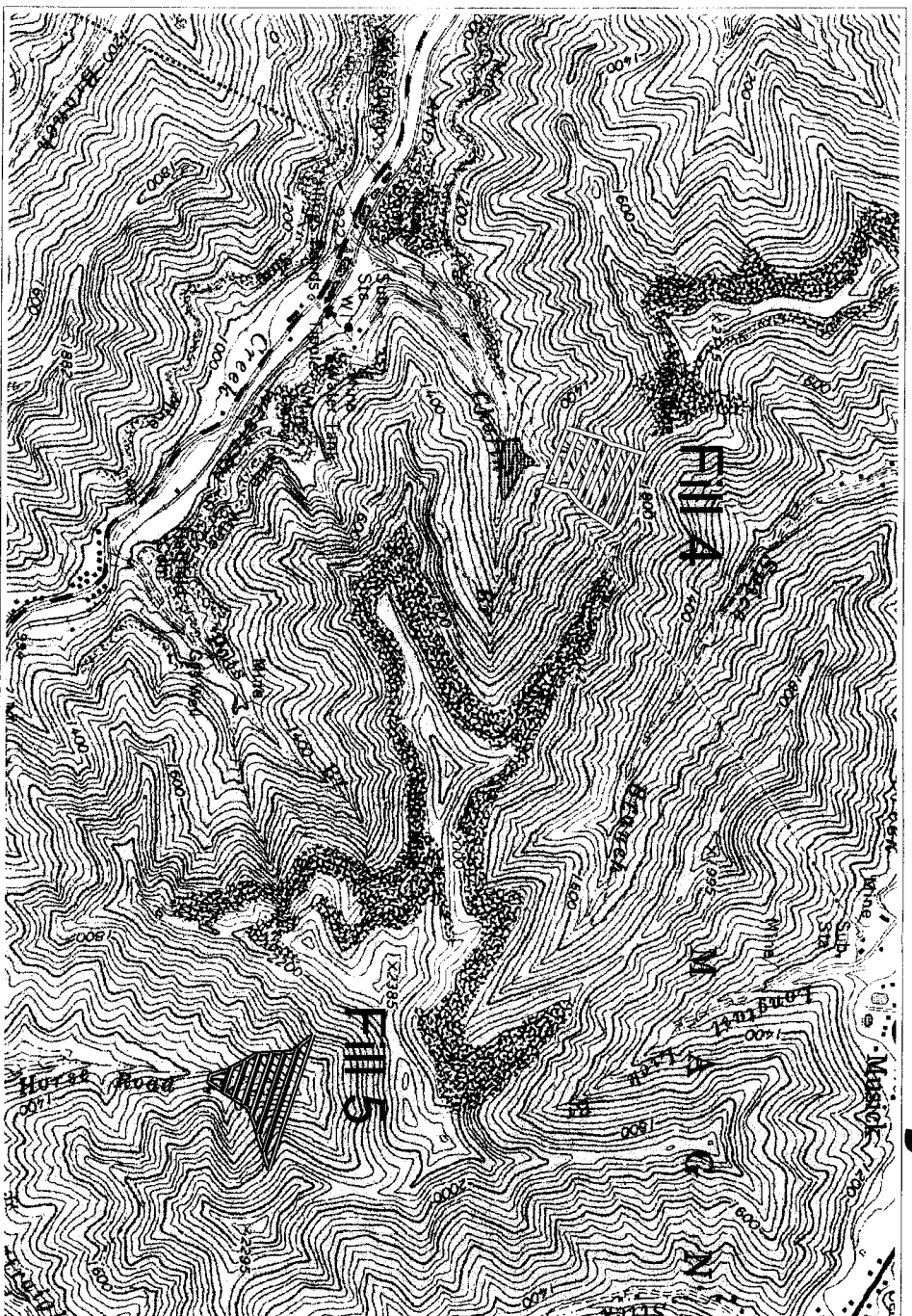
- Fill 1 - Unnamed Tributary of Pigeon Creek
- Fill 2 - Unnamed Tributary of Mate Creek
- Fill 3 - Unnamed Tributary of Mate Creek



Mapping : USGS 7.5 Series - Barnabus and Delbarton

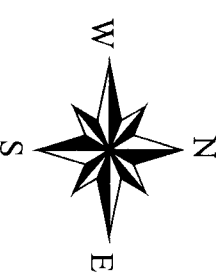
King Coal Highway Project
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Red Jacket Project Area



Fill 4 - adjacent to Chafin Branch
of Mate Creek

Fill 5 - Horse Road Fork of Straight
Fork of Mate Creek

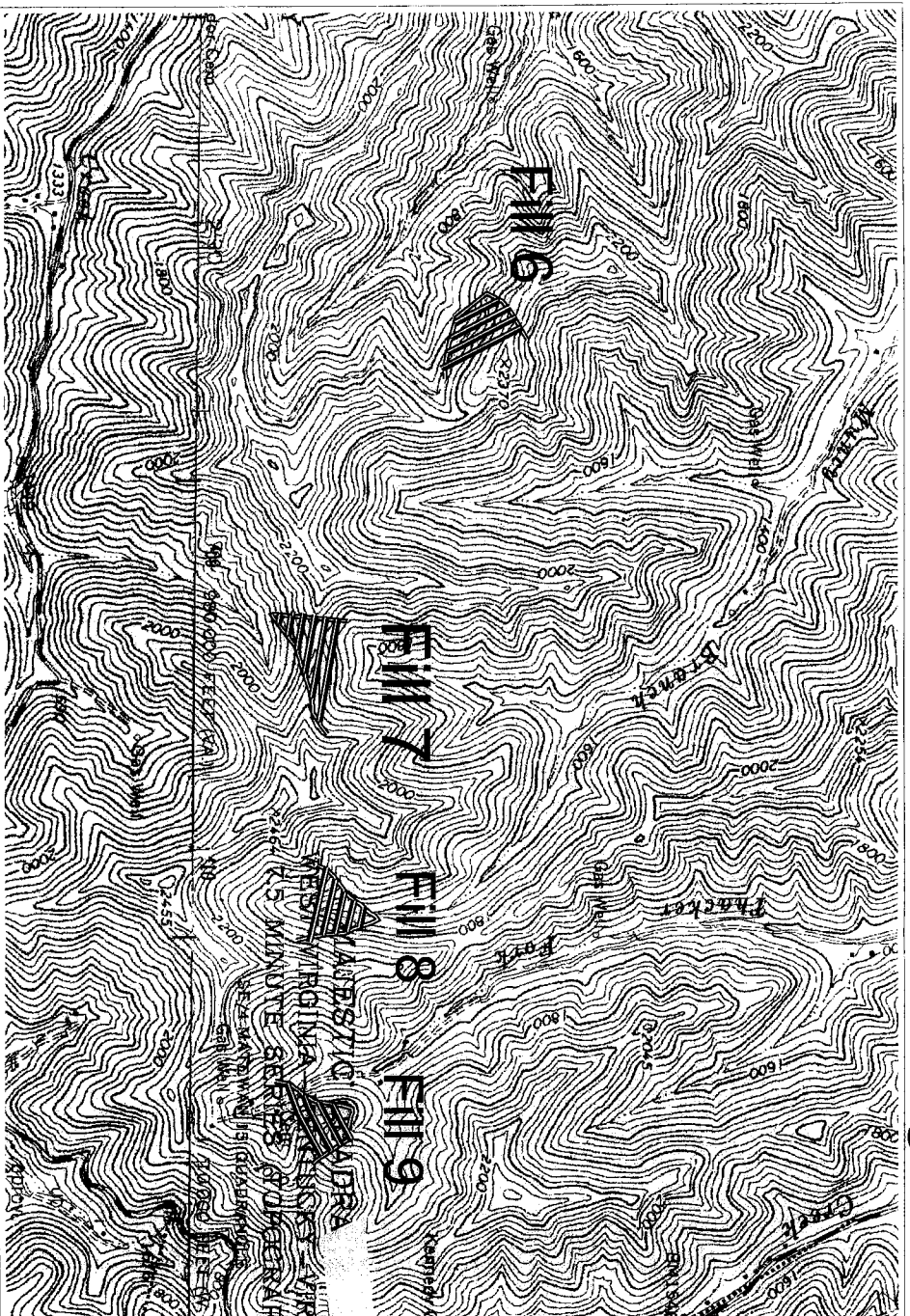


Mapping : USGS 7.5 Series - Barnabus

King Coal Highway Project
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Red Jacket Project Area

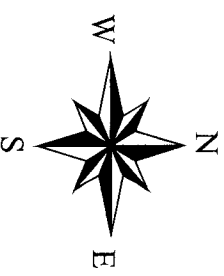


Fill 6 - Unnamed Tributary of
Straight Fork of
Mate Creek

Fill 7 - Unnamed Tributary of
Mate Creek

Fill 8 - Big Muncy Branch of
Pigeon Creek

Fill 9 - Thacker Fork of
Pigeon Creek



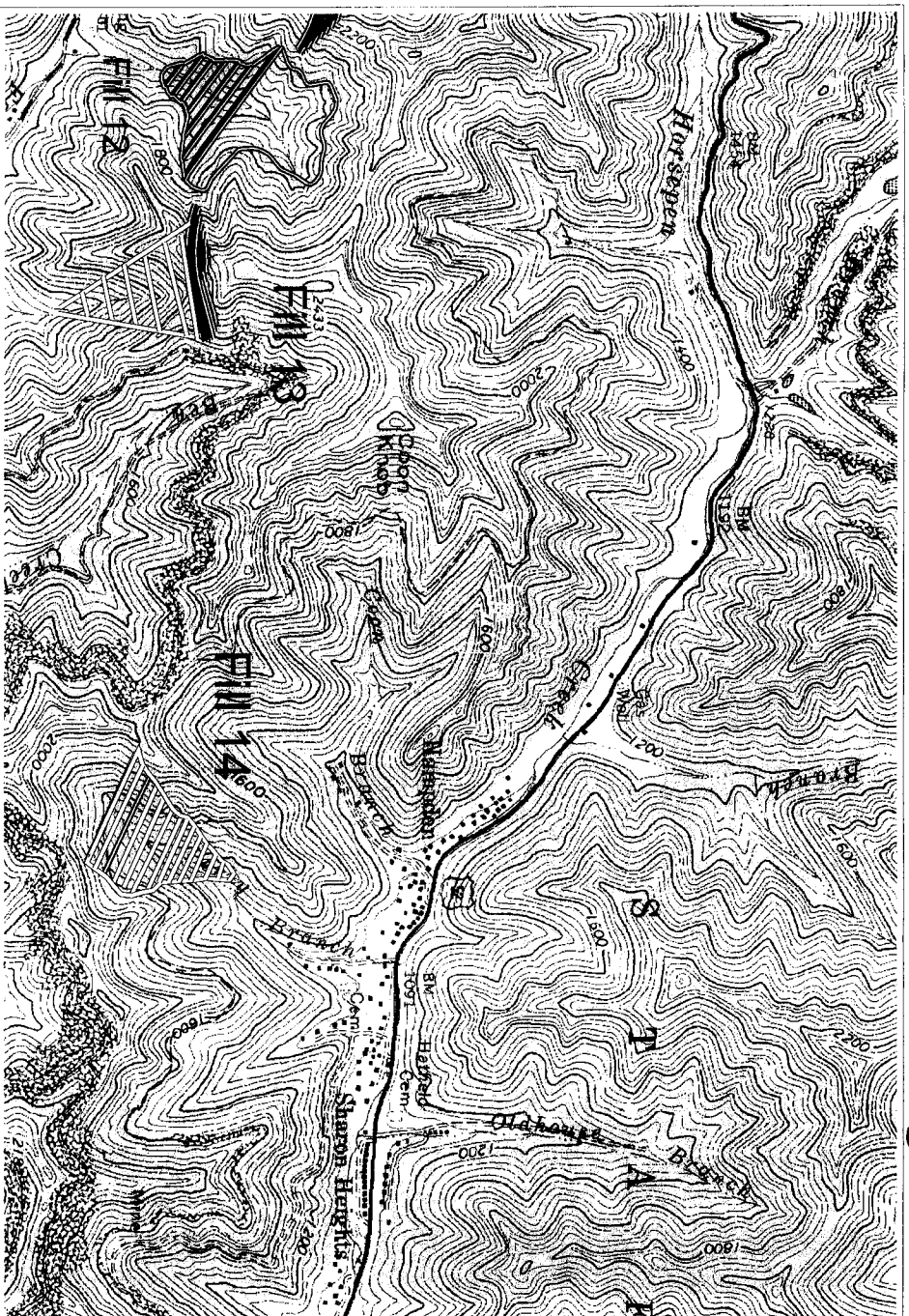
Mapping : USGS 7.5 Series - Barnabus and Whamcliffe

0.8 0 0.8 1.6 Miles

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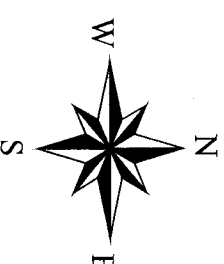
King Coal Highway Project
Red Jacket Segment
State Project: X169-SHAWN-1.03.
Federal Project: DPS-0012(013).

Red Jacket Project Area



Fill 13 - Unnamed Tributary of
Left Fork of Ben Creek

Fill 14 - Perry Branch of
Horsepen Creek



Mapping : USGS 7.5 Series - Man

King Coal Highway Project
Red Jacket Segment
State Project: X(169-SHA/WN-1 03,
Federal Project: DPS-0012(013).

NOTE: ALL FILL LOCATIONS AND SIZES ARE APPROXIMATE

